

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

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IN RE:)

TRI-STATE CREMATORY)
LITIGATION)

MDL DOCKET NO. 1467

This motion relates to all actions.)

PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE
AND RENEWAL OF PLAINTIFFS' MOTION
IN SUPPORT OF APPOINTMENT OF A SPECIAL MASTER TO
OVERSEE IDENTIFICATION AND FINAL DISPOSITION
OF RECOVERED REMAINS

On April 7, 2003, the Georgia Bureau of Investigation announced its intention to deliver all sets of unidentified human remains recovered from the Tri-State Crematory property to the Walker County Coroner's Office for interment in Walker County. In a letter to Walker County Coroner DeWayne Wilson, Georgia Medical Examiner Kris Sperry stated:

The GBI and the State Medical Examiner's Office have exhausted all presently known and available information and resources in the attempts to achieve identifications on the remaining unidentified individuals who were recovered from the Tri-State Crematory property. Thus, I am releasing these unidentified remains to your custody.

"Unidentified Crematory Bodies Released For Burial," *Chattanooga Times Free*

Press, April 8, 2003, B1 (attached in full as Exhibit “A.”)

Plaintiffs ask that this Court take judicial notice of the GBI’s intent to relinquish control of these one hundred sixteen (116) unidentified sets of remains to the authority of the Walker County Coroner, and ask that the Court assert its *in rem* jurisdiction over these remains before the planned interment takes place.

Plaintiffs have previously asked this Court to appoint a special master to oversee the final disposition of any unidentified remains at the time when the GBI determines that its identification efforts must conclude. *See* Plaintiffs’ Motion in Support of Appointment of a Special Master to Oversee Identification and Final Disposition of Recovered Remains, filed January 27, 2003 and Plaintiffs’ Reply In Support of Appointment of a Special Master to Oversee Identification and Final Disposition of Recovered Remains, filed February 27, 2003. As plaintiffs set out therein, when the GBI ends its identification process, a host of questions arise for members of the class now before this Court. The class, through counsel, has asked this Court to appoint a special master to help resolve these questions, which include whether any additional identification efforts, outside the scope of the GBI’s forensic methodologies or needs, can be performed, and how the respectful

and dignified disposition of any remains that cannot be identified should be accomplished.

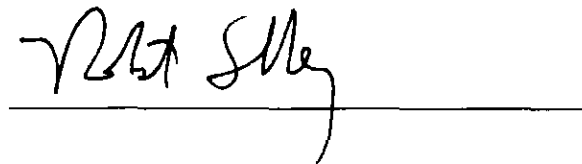
These questions are of critical importance to all class members whose loved ones have not yet been identified on the Tri-State property, yet they will become moot if the Walker County Coroner is allowed to take control of and inter these remains before such questions are resolved. A judicial determination, informed by the counsel of a special master, is the proper method for determining the final disposition of these remains. An *ad hoc* agreement between the GBI and Walker County Coroner simply cannot take into account the concerns of all parties affected by these events. Moreover, plaintiffs believe it is imperative that the members of the class, some of whose loved ones' remains are necessarily those that will be interred, and who control the right to their disposition, be party to this process.

This Court's jurisdiction gives it the authority to resolve these questions and to bind all implicated parties with a single decision regarding the disposition of these remains. Plaintiffs respectfully request that this Court exercise its jurisdiction to preserve the rights of all parties in ensuring that all possible efforts have been made to identify these remains, and to allow such a reasoned determination regarding the final disposition of these remains to take place.

Plaintiffs likewise renew their request that this Court appoint a special master, pursuant to Federal Rule of Civil Procedure 53, to oversee these efforts and to advise the Court in the specialized determinations these complex and sensitive questions will undoubtedly present.

Respectfully submitted,

Dated this 9th day of April, 2003.



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PROOF OF SERVICE BY MAIL

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